IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.1571 OF 2006

Magansing Motilal Vyas & Anr. ...Petitioners.

Vs.

Sou.Asha Laxman Kelkar. ...Respondents.

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Mr.V.P.Sawant for the Petitioner.

Mrs.Sangeeta S.Vaidya for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

July 11, 2006.

P.C. :

At the hearing of this petition, Counsel appearing on behalf of the contesting parties are instructed by their respective clients to agree to the following order being passed by the Court without the recording of any further reasons:

1. Without the expression of any opinion by this Court on the merits of the respective claims and

contentions of the parties, the impugned order dated 30th November 2005 of the 8th Ad-hoc Additional District Judge, Pune in Civil Appeal No.653 of 2004 is quashed and set aside. Civil Appeal No.653 of 2004 is restored to the file of the Additional District Judge, Pune for a fresh decision upon hearing the parties. Parties shall appear before the Appellate Court for receiving directions on 31st July 2006 at 11 a.m.

2. It would be open to the Respondent to move the Appellate Court for the issuance of a direction to the TILR for carrying out a survey for the purposes of determining the area that is in the occupation of the Petitioners and the Survey number upon which the premises in the occupation of the Petitioners are situated. The parties are agreed that the Additional District Judge shall issue necessary directions to the TILR. In that event the TILR shall carry out a survey in the presence of the parties and submit his report thereon to the Additional District Judge within a period of two weeks of the date of the survey.

3. All the rights and contentions of the parties are specifically kept open. Upon the receipt of the report of the TILR, the Appellate Court shall

dispose of the appeal after hearing the parties preferably within a period of three months.

The Petition is disposed of in the above terms.

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